

# EXHIBIT 1

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## Bill would help regulators better enforce safety rules

Steve Tetreault and Arnold M. K

By STEVE TETREAULT and ARNOLD M. KNIGHTLY

LAS VEGAS REVIEW-JOURNAL

WASHINGTON — A **bill** introduced Tuesday in the House **would** empower federal **regulators** in states like Nevada that have fallen short in enforcing workplace **safety** laws.

The measure was prompted by deficiencies in Nevada's **safety** programs that were brought to light in a federal audit after a series of worker deaths in the prerecession Southern Nevada building boom, most notably during the construction of CityCenter, MGM Mirage's \$8.5 billion Strip megacomplex.

"What is very clear from the recent OSHA special review is that we have not been doing a **good** job of enforcing (**safety**) standards," said Rep. Dina Titus, D-Nev.

She announced her **bill** at a hearing by the House work force protections subcommittee.

Nevada is one of 22 states that runs its own workplace **safety** programs with the blessing of the federal Occupational **Safety** and Health Administration, after certifying that its standards and enforcement are "at least as effective" as those set at the federal level.

But in situations in which state enforcement is found lacking, the federal government's options are limited, Titus said. It can "ask nicely" for problems to be fixed, she said. Or the government can terminate the state program, an "extreme step" that leaves some workers unprotected.

The new legislation **would** allow OSHA to compel improvement to state **safety** enforcement programs without having to begin the termination process. It also allows OSHA to step in and **enforce safety** laws as states are fixing their programs.

"This gives OSHA some options rather than just the two extremes," Titus said.

The **bill** also calls for the Government Accountability Office to audit state programs every five years.

Scrutiny of Nevada's program comes after 12 deaths on Strip construction sites. Six of the deaths happened at CityCenter and two more occurred at the adjacent Cosmopolitan site, which is still under construction.

Federal OSHA issued a report in October critical of Nevada OSHA and described "an urgent need for corrections in oversight and changes in all phases" in Nevada's **safety** program.

Nevada OSHA Chief Administrative Officer Steve Coffield said Titus sent an advance copy of the **bill** to his office. She then held a telephone conference with her staff and state OSHA officials to receive opinions from the agency before introducing the **bill**.

Coffield said that Titus expressed concern that there was no middle ground between asking for problems to be fixed or terminating state programs.

"That's kind of what she expressed to us as being her concern, that there's wasn't any middle ground," said Coffield, who took over the state program in September. "There's no middle action that could be taken so that they didn't have to go to the extreme step (of terminating state programs)."

Nevada Division of Industrial Relations Administrator Donald Jayne, whose division oversees Nevada OSHA, said Titus did incorporate some of the state's suggestions into the **bill**.

He declined to elaborate, but said it is important for the **bill** to protect states' due process steps with federal OSHA.

"We're appreciative of the efforts that Congresswoman Titus is doing," Jayne said. "We're appreciative that she brought draft legislation to us. At the same time we're trying to be careful because state plans go through quite a rigorous process to get their final approval, so state plans with final approval do need a formal due process."

Coffield said the state agency is still working on 18 recommendations given in the federal OSHA report, and an update meeting with federal officials is scheduled for the end of March.

At the hearing on the Titus **bill**, a federal OSHA official gave the **bill** an initial thumbs up.

"Too many Nevadans have died needlessly in the workplace," said David Michaels, assistant secretary of labor in charge of OSHA. "We can take over a state plan or we can ask nicely but we don't have anything in between. We certainly need tools."

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# EXHIBIT 2

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## Government Affairs

### **OSHA Stakeholder Meetings on Modernization of Injury and Illness Data Collection System**

OSHA will hold two meetings to gather information from stakeholders to help modify its current injury and illness recordkeeping regulation and develop a modernized recordkeeping system.

"These informal stakeholder meetings and written comments from stakeholders will help give OSHA direction to develop innovative ideas that will allow employers, workers and researchers to participate in improving occupational safety and health through the use of occupational injury and illness data," said Assistant Secretary of Labor for OSHA Dr. David Michaels.

These stakeholder meetings also support President Obama's Open Government Initiative to increase the ability of the public to easily find, download and use the resulting dataset generated and held by the federal government.

The information discussion stakeholder meeting dates are:

- May 25, 8:30 a.m. to 4:30 p.m. EDT, Washington, D.C.
- June 3, 8:30 a.m. to 4:30 p.m. CDT, Chicago, Ill.

To register to participate in the meetings, visit <http://tinyurl.com/2dc6xrk> or send a request to: Eastern Research Group Inc., 110 Hartwell Ave., Lexington, MA 02421; Attention OSHA Data Collection Process Stakeholder Meeting Registration.

For further information, see the Federal Register notice at <http://s.dol.gov/37>.

### **OSHA Holds Series of Stakeholder Meetings on Worker Injury and Illness Prevention Programs**

OSHA will use comments from a series of stakeholder meetings to help develop a proposed rule for Injury and Illness Prevention Programs, known as I2P2. The rule will require employers to develop and implement a program that minimizes worker exposure to safety and health hazards. Instead of waiting for an OSHA inspection or a workplace incident to address workplace hazards, employers would be required to create a plan for identifying and correcting hazards, and then implement the plan. Workers would also participate in the development and implementation of such plans.

"We are asking employers to 'find and fix' the hazards in their workplaces," said Assistant Secretary of Labor for OSHA Dr. David Michaels. "This common sense rule will help make the secretary of labor's vision of 'Good Jobs for Everyone' a reality." More information on I2P2 is available in today's Federal Register notice at <http://s.dol.gov/35>.

The meetings will be held June 3 in East Brunswick, N.J., June 10 in Dallas, Texas, and June 29 in Washington, D.C. All meetings will take place from 8:30 a.m. to 4:30 p.m. local time. Those interested in participating in the

meetings should submit a notice of intent to participate at <http://tinyurl.com/2dlfd2e>. Submissions also can be mailed to Eastern Research Group Inc., 110 Hartwell Ave., Lexington, MA 02421; Attention: OSHA I2P2 Stakeholder Meeting Registration. Or fax submissions to 781-674-2906 labeled "Attention: OSHA I2P2 Stakeholder Meeting Registration."

Submission deadlines for confirmed registration are May 20 for the June 3 meeting, May 27 for the June 10 meeting and June 15 for the June 29 meeting. After these deadlines, registration will remain open until the meetings are full.

### **DOL/OSHA Semi-Annual Regulatory Agenda Announced**

This document sets forth the Department's semiannual agenda of regulations that have been selected for review or development during the coming year. The Department's agencies have carefully assessed their available resources and what they can accomplish in the next 12 months and have adjusted their agendas accordingly.

<b>Prerule Stage</b>		
227	Occupational Exposure to Beryllium	1218-AB76
228	Methylene Chloride (Section 610 Review)	1218-AC23
229	Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl	1218-AC33
230	Bloodborne Pathogens (610 Review) (Section 610 Review)	1218-AC34
<b>Proposed Rule Stage</b>		
231	Confined Spaces in Construction	1218-AB47
232	Occupational Exposure to Crystalline Silica	1218-AB70
<b>Final Rule Stage</b>		
233	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218-AB67
234	Cranes and Derricks in Construction	1218-AC01

For additional details on each rule, see <http://tinyurl.com/2d93rmk>.

### **OSHA Takes Action With Severe Violator Program and Increased Penalties**

Every day, about 14 Americans fail to come home from work to their families. Tens of thousands die from workplace disease and more than 4.6 million workers are seriously injured on the job annually. OSHA is implementing a new Severe Violator Enforcement Program and increasing civil penalty amounts.

"For many employers, investing in job safety happens only when they have adequate incentives to comply with OSHA's requirements," said Assistant Secretary of Labor for OSHA Dr. David Dr. Michaels. "Higher penalties and more aggressive, targeted enforcement will provide a greater deterrent and further encourage these employers to furnish safe and healthy workplaces for their employees."

The new Severe Violator Enforcement Program is intended to focus OSHA enforcement resources on recalcitrant employers who endanger workers by demonstrating indifference to their responsibilities under the law. This supplemental enforcement tool includes increased OSHA inspections in these worksites, including mandatory OSHA follow-up inspections, and inspections of other worksites of the same employer where similar hazards and deficiencies may be present. SVEP will become effective within the next 45 days. For more information, visit <http://www.osha.gov/dep/svep-directive.pdf>.

"SVEP will help OSHA concentrate its efforts on those repeatedly recalcitrant employers who fail to meet their obligations under the Occupational Safety and Health Act. It will include a more intense examination of an employer's practices for systemic problems that would trigger additional mandatory inspections," said Michaels.

Last year, OSHA assembled a work group to evaluate its penalty policies and found currently assessed penalties are too low to have an adequate deterrent effect. Based on the group's findings and recommendations, several

administrative changes to the penalty calculation system, outlined in the agency's Field Operations Manual, are being made. These administrative enhancements will become effective in the next several months. The penalty changes will increase the overall dollar amount of all penalties while maintaining OSHA's policy of reducing penalties for small employers and those acting in good faith.

The current maximum penalty for a serious violation, one capable of causing death or serious physical harm, is only \$7,000 and the maximum penalty for a willful violation is \$70,000. The average penalty for a serious violation will increase from about \$1,000 to an average \$3,000 to \$4,000. Monetary penalties for violations of the OSH Act have been increased only once in 40 years despite inflation. The Protecting America's Workers Act would raise these penalties, for the first time since 1990, to 12,000 and \$250,000, respectively. Future penalty increases would also be tied to inflation. In the meantime, OSHA will focus on outreach in preparation of implementing this new penalty policy. For more information on the penalty policy, visit

<http://www.osha.gov/dep/penalty-change-memo.pdf>.

"Although we are making significant adjustments in our penalty policy within the tight constraints of our law, this administrative effort is no substitute for the meaningful and substantial penalty changes included in PAWA," said Dr. Michaels. "OSHA enforcement and penalties are not just a reaction to workplace tragedies. They serve an important preventive function. OSHA inspections and penalties must be large enough to discourage employers from cutting corners or underfunding safety programs to save a few dollars."

### **OSHA Formaldehyde Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on Formaldehyde (29 CFR 1910.1048). The standard protects workers from the adverse health effects from occupational exposure to Formaldehyde. Comments must be submitted (postmarked, sent, or received) by June 4, 2010. You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. See <http://tinyurl.com/24mnr1> for more information.

### **OSHA Asbestos in General Industry; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in its Standard on Asbestos in General Industry (29 CFR 1910.1001). Comments must be submitted (postmarked, sent, or received) by June 4, 2010. You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. See <http://tinyurl.com/2duaptj> for more information.

### **OSHA Dipping and Coating Operations (Dip Tanks) Standard; Extension of the Office of Management and Budget's Approval of the Information Collection (Paperwork) Requirement**

OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirement specified in its Standard on Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)). Comments must be submitted (postmarked, sent, or received) by June 4, 2010. You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. See <http://tinyurl.com/26zgoyt> for more information.

### **Request for Nominations To Serve on the Advisory Committee on Construction Safety and Health (ACCSH)**

The Assistant Secretary of Labor for Occupational Safety and Health invites interested parties to submit nominations for membership on ACCSH. Nominations for ACCSH must be submitted (postmarked, sent, transmitted, or received) by June 14, 2010. Nominations, including attachments, may be submitted electronically at <http://www.regulations.gov>, the Federal e-Rulemaking Portal. Follow the online instructions for submitting nominations. For more info, see <http://tinyurl.com/28hyo93>.

**Derricks; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

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OSHA solicits public comments concerning its proposal to extend OMB's approval of the information collection requirements specified in its Standard on Derricks (29 CFR 1910.181). Comments must be submitted (postmarked, sent, or received) by June 14, 2010. Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. For more info see here: <http://tinyurl.com/28lly7o>.

**State Legislative Activities Report: February – April 2010**

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**FL 35333 2009**

AGENCY: Department of Environmental Protection

TITLE: Forms and Instructions

PROPOSED: 10/09/2009

ADOPTED: 02/19/2010

SUMMARY: Deletes definitions and removes language referenced on department forms related to the vacated federal Clean Air Mercury Rule (CAMR). Clarifies language on the Acid Rain Part application forms and reinstates the Acid Rain Phase II Nox Compliance Plan form which was inadvertently deleted.

AGENCY CONTACT: Ms. Terri Long, Dept of Environmental Protection, Tallahassee, FL 850-921-9556, [terri.long@dep.state.fl.us](mailto:terri.long@dep.state.fl.us)

CITATION: FAC 62-210.200, .900

STATUS: 02/19/2010 Rule Adoption EFFECTIVE: 03/11/2010 Vol. 36, Issue 9, Florida Administrative Weekly 03/05/2010 p.1083

**FL 35334 2009**

AGENCY: Department of Environmental Protection

TITLE: Federal Mercury Trading Provisions

PROPOSED: 10/09/2009

ADOPTED: 02/19/2010

SUMMARY: Deletes language related to the vacatur of the Federal Clean Air Mercury Rule (CAMR) as it relates to Florida's air permitting program. Addresses the elimination of the federal mercury trading provisions in operation permits for electric utilities.

AGENCY CONTACT: Ms. Terri Long, Dept of Environmental Protection, Tallahassee, FL 850-921-9556, [terri.long@dep.state.fl.us](mailto:terri.long@dep.state.fl.us)

CITATION: FAC 62-213.205, .420, .440, .460

STATUS: 02/19/2010 Rule Adoption EFFECTIVE: 03/11/2010 Vol. 36, Issue 9, Florida Administrative Weekly 03/05/2010 p.1083

**FL 35630 2009**

AGENCY: Department of Financial Services/Division of State Fire Marshal

TITLE: Presence of Toxic Substances

PROPOSED: 12/11/2009

SUMMARY: Amends rules to allow flexibility in maintaining current notices of toxic substances in the workplace, without the need for constant rule amendment.

AGENCY CONTACT: Charles Brush, Safety Program Manager, Bureau of Fire Standards and Training, Division of State Fire Marshal, 352-369-2836

CITATION: FAC 69A-62.004

STATUS: 02/19/2010 Proposed Rule COMMENT DL: 03/12/2010 Vol. 36, Issue 07, Florida Administrative Weekly 02/19/2010 pp.834-835

**FL 35696 2009**

AGENCY: Department of Financial Services/Division of State Fire Marshal  
TITLE: Certificate of Competency  
PROPOSED: 12/24/2009

SUMMARY: Simplifies and clarifies that an application for Certificate of Competency for a Special Inspector must be submitted by the employing insurance company which must be authorized to, and be actively engaged in writing boiler insurance in this State. Updates and consolidates the applications for special and deputy inspectors and renewals, and adopts an application for the required examination.

AGENCY CONTACT: Mike Burns, Chief Boiler Inspector, Dept of Financial Services, Division of State Fire Marshal, 850-413-3614, Mike.Burns@myfloridacfo.com

CITATION: FAC 69A-51.020

STATUS: 03/26/2010 Changes Proposed Vol. 36, Issue 12, Florida Administrative Weekly 03/26/2010 p.1409

#### **FL 35921 2010**

AGENCY: Department of Business and Professional Regulation/Division of Hotels and Restaurants  
TITLE: Hydraulic Supply Shut-off Valves  
PROPOSED: 03/05/2010

SUMMARY: Requires replacement of hydraulic supply shut-off valves.

AGENCY CONTACT: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Dept of Business and Professional Regulation, 1940 N Monroe St, Tallahassee, FL 32399-1011, Michelle.Comingore@dbpr.state.fl.us, 850-488-1133

CITATION: FAC 61C-5.025

STATUS: 03/05/2010 Negotiated Rulemaking Vol. 36, Issue 9, Florida Administrative Weekly 03/05/2010 p.997

#### **FL 36028 2010**

AGENCY: Department of Business and Professional Regulation  
TITLE: Mold Related Services  
PROPOSED: 04/09/2010

SUMMARY: Implements the new regulations for mold related services.

AGENCY CONTACT: Richard Morrison, Executive Director, Mold Related Services Licensing Unit, 1940 N Monroe St, Tallahassee, FL 32399

CITATION: FAC 61-31.101, .102, .201, .301, .302, .401, .501 thru .505, .602 thru .605

STATUS: 04/09/2010 Negotiated Rulemaking Vol. 36, Issue 14, Florida Administrative Weekly 04/09/2010 p.1582

### **Michaels Tells Business Week Incomplete Recordkeeping May Be Hiding Worker Injuries**

An article in the March 11 issue of Business Week magazine, "Caution: Stats May Be Slippery," highlighted OSHA efforts to ensure accurate recordkeeping on worker injuries and illnesses. The article, which featured interviews with workers and corporate safety representatives, quoted Assistant Secretary of Labor for OSHA David Michaels' concerns that safety achievements may have been exaggerated at some industrial companies. Michaels revealed in the article that the statistics OSHA has on workplace injuries are incomplete and, in some cases, inaccurate. His concerns grew after a Government Accountability Office report last year revealed that some workers don't report serious injuries — such as broken arms and gashed legs — out of fear of being fired. The report also found that some employers underreport worker injuries to reduce their insurance premiums.

**Click here for the full article.**

### **OSHA Unveils New Workplace Initiatives at Latino Summit**

Several initiatives to improve workplace safety were announced this week during **OSHA's National Action Summit for Latino Worker Health and Safety**, which took place in Houston. The summit aimed to develop a means to better reduce injuries, illnesses and deaths on the job, particularly among Latinos, who are killed on

the job at higher rates than other workers. OSHA administrator David Michaels kicked off the event by announcing it would be the first of several similar local conferences. One such meeting currently is being planned in Nebraska to focus on the needs of Latino and immigrant workers in the meatpacking industry, he said. In her keynote address Wednesday, Secretary of Labor Hilda L. Solis laid out several new initiatives designed to increase worker involvement in safety and assist business owners. The initiatives include:

- Effective April 28, compliance officers must check to ensure training provided to workers is done so in a format employees can understand.
- Mayors of 10 cities will be asked to have city building inspectors work jointly with OSHA when they observe unsafe work conditions.
- Expansion of the Susan Harwood Training Grant Program.
- A construction industry pilot program.

### **OSHA's Fairfax Receives Promotion**

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Richard Fairfax, OSHA's director of enforcement programs, has been named the agency's new deputy assistant secretary. A 32-year OSHA veteran, Fairfax will serve as an assistant OSHA administrator under agency head David Michaels. Fairfax, who began the new position April 5, shares the same title as Jordan Barab. There are two assistants under the OSHA administrator: a political appointee whose term typically does not exceed that of the administration that bestowed the appointment, and a career senior executive. Barab is the former; Fairfax the latter. Taking over as acting director of enforcement programs will be Thomas Galassi, who also will continue as director of technical support and emergency management. Fairfax also served as acting director of construction; that position will be taken over by Bill Parsons.

### **Washington Brief: Watchdog Asks OSHA to Reassess Injury Log Rule**

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The federal government's watchdog for small businesses says the Occupational Safety and Health Administration may have underestimated the costs of requiring employers to record musculoskeletal disorders as a separate category on injury logs. In a March 30 letter to OSHA, the U.S. Small Business Administration's Office of Advocacy recommended that the agency "assess the validity of its cost assumptions" before proceeding with a proposed rule that would add MSDs as a separate column on the injury and illness log. OSHA contends the cost to employers would be minimal: 5 minutes to familiarize themselves with the new rule, and 1 minute to check off any MSDs on the log. Business groups contend this estimate is way off the mark and dispute OSHA's claim that the rule would have no significant impact on small businesses. Business groups contend there is no consensus in the scientific community on how to identify, diagnose and determine the cause of MSDs. The proposed rule would require employers to decide whether an injury is an MSD -- "complex medical evaluations they are not qualified to make," according to the Office of Advocacy's letter to OSHA. This would force employers to talk to employees about their medical history, consult with medical authorities or refer the employee to a doctor for diagnosis, the letter states. It also could be difficult to determine whether an MSD is new and work-related, or instead is a result of activities outside work, the letter noted. Read more here: <http://tinyurl.com/y7oaokp>

### **February – April State SH&E Legislative Activity Report**

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#### **FL H 41**

COMPARE: FL H 323, FL H 893, FL S 168, FL S 244, FL S 324, FL S 326, FL S 328, FL S 374, FL S 522, FL S 592, FL S 934, FL S 2514

IDENTICAL: FL S 448

AUTHOR: Holder (R)

TITLE: Electronic Wireless Communications Device Use

INTRODUCED: 03/02/2010

LAST AMEND: 03/10/2010

DISPOSITION: Pending

LOCATION: House Finance & Tax Council Committee

SUMMARY: Prohibits operation of moving motor vehicle while reading, manually writing or typing, or sending message on electronic wireless communications device.

STATUS:

- 03/16/2010 Withdrawn from HOUSE Committee on PUBLIC SAFETY AND DOMESTIC SECURITY POLICY.
- 03/16/2010 To HOUSE Council on FINANCE AND TAX.
- 03/16/2010 Referred to HOUSE Council on ECONOMIC DEVELOPMENT AND COMMUNITY AFFAIRS POLICY.

**FL H 359**

SIMILAR: FL S 154

AUTHOR: Gibson A (D)

TITLE: Workplace Safety

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: House Governmental Affairs Policy Committee

SUMMARY: Relates to workplace safety; requires public employers to submit injury and illness data to the Division of Workers' Compensation using a specified form; requires data from reports to be available on the division's website; requires an employer to retain reports for seven years; requires a toll-free telephone number for public employees related to workplace safety; requires public employees to comply with OSHA standards; requires an analysis of work-related injuries and workers' compensation claims.

**STATUS:**

- 03/02/2010 INTRODUCED.
- 03/02/2010 To HOUSE Committee on GOVERNMENTAL AFFAIRS POLICY.
- 03/02/2010 Referred to HOUSE Committee on INSURANCE, BUSINESS AND FINANCIAL AFFAIRS POLICY.
- 03/02/2010 Referred to HOUSE Committee on GOVERNMENT OPERATIONS APPROPRIATIONS.
- 03/02/2010 Referred to HOUSE Council on ECONOMIC DEVELOPMENT AND COMMUNITY AFFAIRS POLICY.

**FL H 567**

IDENTICAL: FL S 1094

AUTHOR: Bembry (D)

TITLE: Assault and Battery

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: House Health Care Services Policy Committee

SUMMARY: Relates to assault and battery; provides for upgrading of degree of specified assault and battery offenses committed against social workers based on their position or employment; provides for sentencing; provides for additional imprisonment in certain circumstances; prohibits gain-time and discretionary early release for offenders; provides exception.

**STATUS:**

- 03/02/2010 INTRODUCED.
- 03/02/2010 To HOUSE Committee on HEALTH CARE SERVICES POLICY.
- 03/02/2010 Referred to HOUSE Committee on PUBLIC SAFETY AND DOMESTIC SECURITY POLICY.
- 03/02/2010 Referred to HOUSE Committee on CRIMINAL AND CIVIL JUSTICE APPROPRIATIONS.
- 03/02/2010 Referred to HOUSE Council on CRIMINAL AND CIVIL JUSTICE POLICY

**FL H 617**

COMPARE: FL S 1338

AUTHOR: Bembry (D)

TITLE: Limestone Mining

INTRODUCED: 03/02/2010

LAST AMEND: 03/11/2010

DISPOSITION: Pending

LOCATION: House Second Reading

SUMMARY: Relates to limestone mining; eliminates method for determining ratio of mitigation-to-wetlands loss relating to limestone and sand mining; provides that financial responsibility for mitigation for wetlands and other surface Waters required by permit for activities associated with extraction of limestone are subject to approval.

## STATUS:

- 03/15/2010 In HOUSE. Pending review of Committee Substitute under Rule 7.20.
- 03/15/2010 In HOUSE. Placed on Calendar.

**FL H 975**

COMPARE: FL S 1042

IDENTICAL: FL S 1044

AUTHOR: Fetterman (D)

TITLE: Reactive Drywall

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: House Insurance, Business &amp; Financial Affairs Policy Committee

SUMMARY: Relates to reactive drywall; creates Legislative Task Force on Reactive Drywall; requires task force to evaluate health risks, collect data, and make recommendations to Governor and Legislature regarding reactive drywall; requires person who inspects homes for corrosion of metals associated with reactive drywall to inspect certain items for corrosion; requires person who removes reactive drywall or corroded appliances to provide homeowner with remediation plan.

## STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To HOUSE Committee on INSURANCE, BUSINESS AND FINANCIAL AFFAIRS POLICY.
- 03/02/2010 Referred to HOUSE Committee on MILITARY AND LOCAL AFFAIRS POLICY.
- 03/02/2010 Referred to HOUSE Committee on GOVERNMENT OPERATIONS APPROPRIATIONS.
- 03/02/2010 Referred to HOUSE Council on GENERAL GOVERNMENT POLICY.

**FL H 1133**

SIMILAR: FL S 2196

AUTHOR: Mayfield D (R)

TITLE: Property Repairs and Reactive Drywall

INTRODUCED: 03/02/2010

LAST AMEND: 03/25/2010

DISPOSITION: Pending

LOCATION: House Civil Justice &amp; Courts Policy Committee

SUMMARY: Relates to agreements for property repairs and reactive drywall; authorizes specified persons or entities to agree to specific measures to effect repairs to improvements to real property due to problems arising from use of reactive drywall; prohibits cause of action against specified persons or entities for damage to property arising from prior use of reactive drywall or from such repairs.

## STATUS:

- 03/31/2010 To HOUSE Committee on CIVIL JUSTICE AND COURTS POLICY.

**FL H 1177**

COMPARE: FL S 544

AUTHOR: Williams T (R)

TITLE: Brownfields Development

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: House Military &amp; Local Affairs Policy Committee

SUMMARY: Relates to brownfields development; authorizes waiver of specified concurrency requirements for specified brownfield sites; authorizes designation of specified brownfield areas as transportation concurrency exception areas; provides for exempting specified brownfield areas from concurrency requirements for transportation facilities; exempts specified developments in brownfield areas from compliance with concurrency requirements.

## STATUS:

- 03/01/2010 To HOUSE Committee on MILITARY AND LOCAL AFFAIRS POLICY.
- 03/01/2010 Referred to HOUSE Council on FINANCE AND TAX.

- 03/01/2010 Referred to HOUSE Council on ECONOMIC DEVELOPMENT AND COMMUNITY AFFAIRS POLICY.
- 03/02/2010 INTRODUCED.
- 03/02/2010 To HOUSE Committee on MILITARY AND LOCAL AFFAIRS POLICY.
- 03/02/2010 Referred to HOUSE Council on FINANCE AND TAX.
- 03/02/2010 Referred to HOUSE Council on ECONOMIC DEVELOPMENT AND COMMUNITY AFFAIRS POLICY.

**FL S 418**

COMPARE: FL H 333, FL H 893, FL S 244, FL S 522, FL S 592, FL S 608

IDENTICAL: FL H 687

AUTHOR: Bullard L (D)

TITLE: Cell Phone Use and Motor Vehicle Operator

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Transportation Committee

SUMMARY: Relates to cell phone use and motor vehicle operator and school zones; prohibits the use of a cellular telephone while operating a motor vehicle in a school zone.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on TRANSPORTATION.
- 03/02/2010 Referred to SENATE Committee on COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES.
- 03/02/2010 Referred to SENATE Committee on TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS.

**FL S 498**

AUTHOR: Aronberg (D)

TITLE: Standards for Drywall

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Regulated Industries Committee

SUMMARY: Relates to standards for drywall; directs the Florida Building Commission, in consultation with the Department of Health, to prohibit by rule in the Florida Building Code the use of drywall that exceeds certain limits established for emissions or the content of sulfur or strontium compounds.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/02/2010 Referred to SENATE Committee on COMMUNITY AFFAIRS.
- 03/02/2010 Referred to SENATE Committee on HEALTH REGULATION.
- 03/02/2010 Referred to SENATE Committee on TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS.

**FL S 500**

COMPARE: FL S 1042

AUTHOR: Aronberg (D)

TITLE: Reactive Drywall Mitigation

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Regulated Industries Committee

SUMMARY: Relates to reactive drywall mitigation; creates the Reactive Drywall Mitigation Act; prohibits a person from performing an inspection or preparing a plan for the removal of reactive drywall or removing reactive drywall and damaged items unless the person is employed by a licensed reactive drywall mitigation business; specifies prerequisites for licensure by the DBPR as a reactive drywall mitigation business.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/02/2010 Referred to SENATE Committee on COMMUNITY AFFAIRS.
- 03/02/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.

**FL S 542**

COMPARE: FL H 7007, FL S 1412

AUTHOR: Constantine (R)

TITLE: Contaminated Site Cleanup

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Environmental Preservation and Conservation Committee

SUMMARY: Relates to contaminated site cleanup; repeals specified provision relating to an obsolete report by the Department of Environmental Protection to the Governor and Legislature on preapproved advanced cleanup contract applications.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on ENVIRONMENTAL PRESERVATION AND CONSERVATION.
- 03/02/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.
- 03/02/2010 Referred to SENATE Committee on RULES.

**FL S 544**

COMPARE: FL H 1177

AUTHOR: Constantine (R)

TITLE: Brownfield Rehabilitation Program

INTRODUCED: 03/02/2010

LAST AMEND: 03/23/2010

DISPOSITION: Pending

LOCATION: Senate Commerce Committee

SUMMARY: Relates to Brownfields; deletes an obsolete date with respect to the establishment of rules governing the Brownfield Rehabilitation Program.

STATUS:

- 04/01/2010 Referred to SENATE Committee on COMMERCE.
- 04/01/2010 Referred to SENATE Committee on FINANCE AND TAX.
- 04/01/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.
- 04/01/2010 Referred to SENATE Policy and Steering Committee on WAYS AND MEANS.
- 04/01/2010 Referred to SENATE Committee on RULES.
- 04/01/2010 To SENATE Committee on COMMERCE.

**FL S 602**

COMPARE: FL H 207

SIMILAR: FL S 358

AUTHOR: Justice (D)

TITLE: Contamination Notification and Site Rehabilitation

INTRODUCED: 03/02/2010

LAST AMEND: 04/06/2010

DISPOSITION: Pending

LOCATION: SENATE

SUMMARY: Relates to contamination notification and site rehabilitation; revises contamination notification provisions; requires individuals responsible for site rehabilitation to provide notice of site rehabilitation to specified entities; authorizes the department to pursue enforcement measures for noncompliance with notice requirements; requires the department to provide specified notice to private K-12 schools and child care facilities.

STATUS:

- 04/07/2010 In SENATE. Pending reference review under Rule 4.7(2).

**FL S 1042**

COMPARE: FL H 975, FL S 500, FL S 1044

AUTHOR: Aronberg (D)

TITLE: Reactive Drywall

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Regulated Industries Committee

SUMMARY: Relates to reactive drywall; requires a person who inspects homes for corrosion of metals associated with reactive drywall to inspect certain items for corrosion; requires a person who removes reactive drywall or corroded appliances to provide the homeowner with a remediation plan; requires the DBPR to adopt rules to establish minimum standards for home inspections of and remediation planning for reactive drywall.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/02/2010 Referred to SENATE Committee on COMMUNITY AFFAIRS.
- 03/02/2010 Referred to SENATE Committee on ENVIRONMENTAL PRESERVATION AND CONSERVATION.
- 03/02/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.

**FL S 1044**

COMPARE: FL S 1042

IDENTICAL: FL H 975

AUTHOR: Aronberg (D)

TITLE: Reactive Drywall

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Regulated Industries Committee

SUMMARY: Relates to reactive drywall; creates the Legislative Task Force on Reactive Drywall; requires the task force to evaluate health risks, collect data, and make recommendations to the Governor and Legislature regarding reactive drywall; requires a person who inspects homes for corrosion of metals associated with reactive drywall to inspect certain items for corrosion.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/02/2010 Referred to SENATE Committee on COMMUNITY AFFAIRS.
- 03/02/2010 Referred to SENATE Committee on ENVIRONMENTAL PRESERVATION AND CONSERVATION.
- 03/02/2010 Referred to SENATE Committee on TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS.
- 03/02/2010 Referred to SENATE Committee on RULES.

**FL S 1586**

AUTHOR: Justice (D)

TITLE: Playground Safety Requirements

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Community Affairs Committee

SUMMARY: Relates to playground safety requirements; requires the DCA, in consultation with the DOE, to adopt rules establishing safety requirements for playgrounds; provides definitions; provides guidelines for the adoption of the safety requirements; prohibits the expenditure of public funds on projects that do not conform to the safety requirements; provides certain exceptions.

STATUS:

- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on COMMUNITY AFFAIRS.

- 03/02/2010 Referred to SENATE Committee on EDUCATION PRE-K - 12.
- 03/02/2010 Referred to SENATE Committee on TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS.

#### **FL S 2196**

SIMILAR: FL H 1133

AUTHOR: Bennett (R)

TITLE: Agreements for Property Repairs and Reactive Drywall

INTRODUCED: 03/02/2010

DISPOSITION: Pending

LOCATION: Senate Regulated Industries Committee

SUMMARY: Relates to agreements for property repairs and reactive drywall; authorizes certain persons or entities to agree to certain measures to effect repairs to improvements to real property due to problems arising from the use of reactive drywall; prohibits a cause of action against certain persons or entities for damage to property arising from prior use of reactive drywall or from such repairs; provides a definition.

#### **STATUS:**

- 03/01/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/01/2010 Referred to SENATE Committee on JUDICIARY.
- 03/01/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.
- 03/02/2010 INTRODUCED.
- 03/02/2010 To SENATE Committee on REGULATED INDUSTRIES.
- 03/02/2010 Referred to SENATE Committee on JUDICIARY.
- 03/02/2010 Referred to SENATE Committee on GENERAL GOVERNMENT APPROPRIATIONS.

#### **OSHA Request for Comment on Aerial Lifts**

OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirement contained in the Aerial Lift Standard. Employers who modify an aerial lift for uses other than those provided by the manufacturer must obtain a certificate from the manufacturer or equivalent entity certifying that the modification is in conformance with applicable American National Standards Institute (ANSI) standards and this Standard, and the equipment is as safe as it was prior to the modification.

Comments must be submitted (postmarked, sent, or received) by April 26, 2010. You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. Contact Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2222. See <http://tinyurl.com/yatxhpl> for more information.

#### **OSHA eTool Explains Ways to Protect the Safety of Electric Power Workers**

Approximately 80 workers die from electric shock each year while working on electrical equipment or related utility operations. To help prevent such deaths, the Occupational Safety and Health Administration recently published the "Electric Power Generation, Transmission and Distribution Standard" eTool. See <http://tinyurl.com/yd2vqhd>.

#### **Advisory Committee on Construction Safety Meeting Scheduled for April 14 & 16**

OSHA will hold a meeting of the Advisory Committee on Construction Safety and Health (ACCSH) April 14 and 16, 2010, in Houston. For more than 35 years, ACCSH and OSHA have collaborated to reduce injuries, illnesses, and fatalities in the construction industry caused by such hazards as falling objects, unstable trenches, power tools, and silica inhalation. See the notice in the Federal Register for more details.

ACCSH also advises Assistant Secretary of Labor for Occupational Safety and Health David Michaels, Ph.D., M.P.H., on worker safety and health in the construction industry. The agenda for this meeting will include updates on OSHA activities and reports from ACCSH work groups that address construction topics related to green jobs, diversity and multilingual issues, nailgun safety, fall protection, prevention by design, and silica exposure, among others.

ACCSH and its work group meetings will all be held at the Crowne Plaza Houston Downtown, 1700 Smith Street, Houston, Texas 77002. ACCSH work groups will meet on Monday, April 12, 2010, from noon to 4:15

p.m., and on Tuesday, April 13, 2010, from 8 a.m. to 4 p.m. The full committee will meet from 8 a.m. to noon on Wednesday, April 14, 2010, and Friday, April 16, 2010. ACCSH meetings are open to the public. Persons requiring special accommodations who wish to attend should contact Veneta Chatmon at (202) 693-1999 or [chatmon.veneta@dol.gov](mailto:chatmon.veneta@dol.gov).

Those wishing to submit comments, requests to address the committee, or presentations, should mail three copies of all materials to the OSHA Docket Office, Docket No. OSHA-2010-0014, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Submissions that do not exceed 10 pages may be faxed to the OSHA Docket Office at (202) 693-1648. Materials may also be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>.

### **NIOSH Requests Comment on Asbestos Fibers Document**

NIOSH is seeking comments on the scope and presentation of scientific information used to support the development of a research framework for asbestos fibers and other EMPs. NIOSH continues to be interested in available and forthcoming research results that can help answer the questions set forth in the Roadmap, as well as information on existing workplace exposure data, health effects, and control technologies. See <http://www.cdc.gov/niosh/review/public/099-C/> for more information. Comments will be accepted until 5:00 p.m. EDT on April 16, 2010.

### **Bill Aims to Sharpen OSHA Teeth in States With Lax Workplace Safety**

*From the Las Vegas Review Journal*

A bill introduced in the House would empower federal regulators in states like Nevada that have fallen short in enforcing workplace safety laws. The measure was prompted by deficiencies in Nevada's safety programs that were brought to light in a federal audit after a series of worker deaths in the prerecession Southern Nevada building boom, most notably during the construction of CityCenter, MGM Mirage's \$8.5 billion Strip megacomplex.

"What is very clear from the recent OSHA special review is that we have not been doing a good job of enforcing (safety) standards," said Rep. Dina Titus, D-Nev. She announced her bill at a hearing by the House work force protections subcommittee. Nevada is one of 22 states that runs its own workplace safety programs with the blessing of the federal Occupational Safety and Health Administration, after certifying that its standards and enforcement are "at least as effective" as those set at the federal level.

But in situations in which state enforcement is found lacking, the federal government's options are limited, Titus said. It can "ask nicely" for problems to be fixed, she said. Or the government can terminate the state program, an "extreme step" that leaves some workers unprotected. The new legislation would allow OSHA to compel improvement to state safety enforcement programs without having to begin the termination process. It also allows OSHA to step in and enforce safety laws as states are fixing their programs. "This gives OSHA some options rather than just the two extremes," Titus said.

The bill also calls for the Government Accountability Office to audit state programs every five years. Scrutiny of Nevada's program comes after 12 deaths on Strip construction sites. Six of the deaths happened at CityCenter and two more occurred at the adjacent Cosmopolitan site, which is still under construction. Federal OSHA issued a report in October critical of Nevada OSHA and described "an urgent need for corrections in oversight and changes in all phases" in Nevada's safety program. Nevada OSHA Chief Administrative Officer Steve Coffield said Titus sent an advance copy of the bill to his office. She then held a telephone conference with her staff and state OSHA officials to receive opinions from the agency before introducing the bill. Coffield said that Titus expressed concern that there was no middle ground between asking for problems to be fixed or terminating state programs. "That's kind of what she expressed to us as being her concern, that there's wasn't any middle ground," said Coffield, who took over the state program in September. "There's no middle action that could be taken so that they didn't have to go to the extreme step (of terminating state programs)."

Nevada Division of Industrial Relations Administrator Donald Jayne, whose division oversees Nevada OSHA, said Titus did incorporate some of the state's suggestions into the bill. He declined to elaborate, but said it is important for the bill to protect states' due process steps with federal OSHA. "We're appreciative of the efforts that Congresswoman Titus is doing," Jayne said. "We're appreciative that she brought draft legislation to us. At the same time we're trying to be careful because state plans go through quite a rigorous process to get their final approval, so state plans with final approval do need a formal due process." Coffield said the state agency

is still working on 18 recommendations given in the federal OSHA report, and an update meeting with federal officials is scheduled for the end of March.

At the hearing on the Titus bill, a federal OSHA official gave the bill an initial thumbs up. "Too many Nevadans have died needlessly in the workplace," said David Michaels, assistant secretary of labor in charge of OSHA. "We can take over a state plan or we can ask nicely but we don't have anything in between. We certainly need tools."

### **OSHA Changes Hexchrome Notification Requirements**

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Employers must notify affected workers of all exposures to hexavalent chromium, regardless of whether the exposures fall above or below the permissible exposure limit, OSHA declared in a new rule that amends the 2006 hex chrome standard.

OSHA this week published both a notice of proposed **rulemaking** and a **direct final rule** amending the standard. The rule was issued in response to a court order calling on OSHA to reconsider its decision to limit employee notification of exposure to only instances in which the exposure exceeded the PEL; this ran counter to the proposed hex chrome standard and OSHA's past practice in other substance-specific standards.

After re-examining the final hex chrome standard, OSHA said it decided to amend the provision to be consistent with language in the proposed standard requiring employee notification of all exposures.

If the agency receives no significant adverse comments on the direct final rule by April 16, it will go into effect June 15. If adverse comments are received, OSHA will withdraw the direct final rule and proceed with the notice of proposed rulemaking.

### **OSHA Stepladders Letter of Interpretation**

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OSHA recently issued a standard letter of interpretation on using a stepladder as a non-self-supporting ladder.

In the **letter**, Richard Fairfax, acting director of the agency's Directorate of Construction, said using a stepladder as a non-self-supporting ladder would violate **1926.1053(b)(4)** unless the ladder was designed for that purpose. He added that because stepladders usually are designed so the rungs are level when the ladder is open and locked on a stable surface, it is likely that positioning a stepladder for use as a non-self-supporting ladder would make the rungs unlevel – also a violation of the standard.

### **Michaels: Good Jobs are Safe Jobs**

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Assistant Secretary of Labor for the Occupational Safety and Health Administration (OSHA) Dr. David Michaels testified before the U.S. House of Representatives Education and Labor Committee's Subcommittee on Workforce Protections. He explained the Department's support of the Protecting America's Workers Act (PAWA), particularly the issue of enhanced penalties. Good jobs are safe jobs. Stronger OSHA enforcement will save lives. The administration supports both the goals of the Protecting America's Workers Act and many specific provisions," said Michaels. PAWA would improve the Occupational Safety and Health Act by raising penalties for violations of the law, strengthen workers' voices in the workplace, expand the rights of victims and their families, expand OSHA coverage to public employees, and require the abatement of serious, willful and repeat hazards during the citation contest period.

- **Read the News Release**
- **Read Michaels' Testimony**

### **OSHA Schedules Combustible Dust Stakeholder Meetings in Chicago**

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OSHA has scheduled its latest informal stakeholder meetings to continue soliciting comments and suggestions for protecting workers from combustible dust hazards in the workplace. Since 1980, more than 130 workers have been killed and more than 780 injured in combustible dust explosions. This set of meetings is the third in a series addressing combustible dust hazards. The first meetings were held in Washington, D.C. A second meeting was held in Atlanta to facilitate participation by families of victims of the Feb. 7, 2008, explosion at an Imperial Sugar Co. plant in Port Wentworth, Ga., which killed 14 workers and resulted in OSHA issuing nearly \$8.8 million in penalties.

OSHA will consider participants' comments in developing a proposed standard for combustible dust.

The Chicago meetings will be held April 21 at 9 a.m. and 1:30 p.m. CDT at the Crowne Plaza Chicago O'Hare Hotel and Conference Center, 5440 North River Road, Rosemont, Ill. A Federal Register notice is available at <http://tinyurl.com/ya546b2>.

Individuals interested in participating must register by submitting a notice of intent to participate by April 7. Notices can be submitted electronically by registering at <http://tinyurl.com/ydvz7a4>. Registrations also can be faxed to 781-674-2906. Or, registrations can be mailed to ERG Inc., 110 Hartwell Ave., Lexington, MA 02421. Registrations that are faxed or mailed should be labeled "Attention: OSHA Combustible Dust Stakeholder Meeting Registration."

For general and technical information, the public may contact Mat Chibbaro, OSHA, Office of Safety Systems, at 202-693-2255. Media inquiries should be directed to Brad Mitchell or Scott Allen, Office of Public Affairs, 312-353-6976.

### **OSHA Request for Comment: Presence Sensing Device Initiation (PSDI)**

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OSHA solicits public comment concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in its Standard on Presence Sensing Device Initiation (29 CFR 1910.217(h)). Comments must be submitted (postmarked, sent, or received) by May 17, 2010. You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. For more info or the Federal Register in its entirety, see <http://tinyurl.com/y96h2co>.

### **OSHA Sends Letters to 15,000 High-Injury Worksites**

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About 15,000 employers recently were sent **letters** from OSHA informing them their workplaces had a higher-than-average injury rate. You can see all 15,000 employers here: [http://osha.gov/as/opa/foia/hot\\_16.html](http://osha.gov/as/opa/foia/hot_16.html).

Based on results from a 2009 survey sent to 100,000 worksites collecting injury and illness data from the previous year, OSHA identified the organizations with the highest number of injuries and illnesses resulting in days away from work, restricted work activities or job transfers – known as the DART rate. The employers who received letters had a DART rate of 4.5 per 100 full-time workers. According to OSHA, the national average is 2.0. Included in the letter was a list of the most frequently cited OSHA standards for each employer's specific industry, along with offers of assistance to help reduce injuries.

### **Get the 2009 MUTCD**

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The 2009 Edition of the MUTCD, dated December 2009, is available in both PDF and HTML. The most current version of the MUTCD is the 2009 Edition. Links to previous versions are listed below. For historical reference and to know what was in effect for a given date, these previous versions will be maintained on this Web site. Download the 2009 version, the earlier version and other information at: [http://mutcd.fhwa.dot.gov/kno\\_2009.htm](http://mutcd.fhwa.dot.gov/kno_2009.htm). Also the FR notice from 12/16 on the subject (135 pages) <http://edocket.access.gpo.gov/2009/pdf/E9-28322.pdf>.

### **New eTool available on OSHA's web site: Electric Power Generation, Transmission and Distribution**

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OSHA is pleased to announce the publication of a new e-tool on OSHA's Web page: "Electric Power Generation, Transmission and Distribution". The eTool was developed under the direction of the Office of Technical Programs and Coordination Activities (OTPCA) with much time and technical assistance from various directorates including DEP, DSG, and SOL.

The eTool can be accessed by clicking the link below:

[https://www.osha.gov/SLTC/etools/electric\\_power/index.html](https://www.osha.gov/SLTC/etools/electric_power/index.html)

### **ASSE Joins Safety and Health Groups in Urging Commitment to Safety in Jobs Bill**

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In a **letter for Senator Richard Durbin (D-IL)**, ASSE joined with ISEA and AIHA in urging that jobs bill before Congress includes a commitment that any jobs created through the appropriations process be safe jobs. Information on the bill can be found **here**.

## **Media Investigates Cal OSHA**

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SoCal Connected, a program on KCET in Los Angeles, conducted what it says is a 6-month investigation of Cal OSHA, which resulted in a program that can be found at <http://kcet.org/socal/2010/01/protected-or-neglected-workplace-safety.html>

## **People Finder System Being Created for Major Disasters**

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The National Library of Medicine (NLM) is working out an interactive Lost People Finder System to be used by emergency responders and medical personnel during large-scale emergencies like this year's Haiti earthquake. A request for comments published Monday in the Federal Register explained the system would be a voluntary collector of information about people who are missing and who are found (recovered) during a disaster. The system would be activated only during disasters or emergencies in which U.S. government agencies are called to contribute to relief efforts and would operate until those efforts cease.

"Information on recovered individuals would be gathered voluntarily from medical and relief personnel who either use a specialized application developed by NLM for the iPhone or submit information to NLM by e-mail via computer or cell phone," according to the notice. Using a photo, name (if available), age category, gender, status (healthy, injured), and location supplied by relatives, the system would help in those seeking family members, friends, and other loved ones.

The Google Person Finder system was deployed during the Haiti earthquake. Using that disaster as a model, NLM estimate some 500 emergency responders might use the proposed finder system during a relief effort, and each one might submit information on 100 people. Each submission should take no more than five minutes. Again based on the Haiti experience (the Google Person Finder system contained information on 50,000 people after two weeks of operation), the agency estimates more than 50,000 family members might use the system twice during a disaster.

For more information on the proposal, contact NLM's David Sharlip at 301-402-9680 or [sharlipd@mail.nih.gov](mailto:sharlipd@mail.nih.gov).

## **OSHA Proposes Recordkeeping Change – Adding MSD Column to OSHA 300**

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OSHA is proposing to revise its Occupational Injury and Illness Recording and Reporting (recordkeeping) regulation by restoring a column on the OSHA Form 300 to better identify work-related musculoskeletal disorders (MSDs). The rule does not change existing requirements for when and under what circumstances employers must record musculoskeletal disorders on their injury and illness logs.

The proposed requirements are identical to those contained in the OSHA recordkeeping regulation that was issued in 2001. Prior to 2001, OSHA's injury and illness logs contained a column for repetitive trauma disorders that included noise and MSDs. In 2001, OSHA separated noise and MSDs into two separate columns, but the MSD column was deleted in 2003 before the provision became effective. OSHA is now proposing to restore the MSD column to the OSHA Form 300 log.

For more information, view OSHA's proposal at: <http://www.dol.gov/federalregister/msdcolumn>. This notice will be published in the Jan. 29 edition of the Federal Register.

Interested parties may submit comments on the proposed rule electronically at <http://www.regulations.gov>, the federal e-rulemaking portal. Comments must include the agency name and docket number for this rulemaking (Docket Number OSHA-2009-0044). The deadline for submitting comments is March 15. OSHA will hold a public meeting on the proposed rule March 9.

## **Recent OSHA Letters of Interpretation**

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Below are three recent OSHA letters of interpretation.

- **Clarification on equivalent test nebulizer for qualitative fit tests**
- **Compliance with 1926.1101 when drilling through asbestos-containing floor tile/mastic**
- **Exposure to radon when working in trenches or excavations**

## **DOL Releases 6 "High-Value" Datasets**

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The DOL made six "high-value" datasets publicly available. The datasets released today include information from OSHA. Earlier this month the Labor Department launched its own **transparency webpage**. The page tracks the department's efforts to comply with the administration's Open Government Directive.

In accordance with the administration's Open Government Directive issued in December 2009, the Department of Labor uploaded the information released today to **Data.gov**. The administration's directive established a new standard for government agencies, insisting that by specific dates they achieve key milestones in transparency, collaboration and participation. The six datasets released today by the Department of Labor are listed below:

- **OSHA Data Initiative — Establishment Specific Injury and Illness Rates**

Also see on OSHA's Web site at [http://www.osha.gov/pls/odi/establishment\\_search.html](http://www.osha.gov/pls/odi/establishment_search.html). Each year, OSHA collects work-related injury and illness data from employers within specific industry and employment size specifications. This data collection is known as the OSHA Data Initiative or ODI. The data are used by OSHA to calculate establishment specific injury and illness incidence rates. Data from 1996 to 2007 are searchable online.

- **Department of Labor Research and Evaluation Inventory**
- **Project GATE (Growing America Through Entrepreneurship)**
- **Public Workforce System Dataset (PWSD)**
- **Workforce Investment Act (WIA) Net Impact Evaluation Dataset**
- **Migrant and Seasonal Agricultural Worker Protection Act (MSPA) Registered Farm Labor Contractor Listing**

### **OSHA Booklet Outlines Hexavalent Chromium Standards**

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OSHA recently published **Hexavalent Chromium**, a booklet outlining industry requirements for hexavalent chromium standards. Workers exposed to this toxic chemical can develop lung cancer and damage to the nose, throat and respiratory system. Inhaling the chemical's fumes can cause allergic reactions or asthmatic symptoms, such as wheezing and shortness of breath. Hexavalent chromium is used in pigments, metal finishing, wood preservatives and fungicides. Workers may also be exposed to hexavalent chromium fumes generated during welding of chromium metal alloys.

"Hexavalent chromium is a powerful lung carcinogen and exposure to this chemical must be minimized," said Assistant Secretary of Labor for OSHA David Michaels. "OSHA provides guidance on its standards to ensure that employers and workers know the best ways to prevent workplace injuries and illnesses."

The booklet explains OSHA's hexavalent chromium standards in a reader-friendly format and is a companion document to the Small Entity Compliance Guide for the Hexavalent Chromium Standards published in 2006. Requirements for exposure limits, exposure monitoring and determination, protective work clothing and equipment, medical surveillance, communication of hexavalent chromium hazards and recordkeeping are described.

### **Hazard Communication Proposed Rule/Notice of Informal Public Hearings.**

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OSHA is scheduling informal public hearings on its proposal to revise the Hazard Communication Standard. OSHA anticipates receiving several hearing requests, and this document describes the procedures the public must use to participate in the hearings. Hearings will begin at 9:30 a.m. local time on the following dates:

- March 2, 2010, in Washington, DC;
- March 31, 2010, in Pittsburgh, PA; and
- April 13, 2010, in Los Angeles, CA.

Interested persons who intend to present testimony or question witnesses at any of these locations must submit (transmit, send, postmark, deliver) a notice of their intention to do so by January 18, 2010. For more info and details, see <http://tinyurl.com/ye7tkjg>.

### **National Action Summit for Latino Worker Health and Safety**

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As you may recall, Secretary of Labor, Hilda Solis, announced earlier this year that the Department would hold a National Action Summit for Latino Worker Health and Safety during the Spring of 2010. The Conference has now been scheduled for April 14 – 15, 2010, in Houston, Texas.

We envision the Conference will bring together representatives from employer associations, labor groups, community organizations, worker centers, the medical community, safety and health professionals, educators, government officials, Consulates, the media and other non-traditional partners to develop new partnerships, target and expand outreach and share the most effective strategies to reach Hispanic workers. We will have

more information, including registration information, in the next few weeks at [www.osha.gov](http://www.osha.gov). In the meantime, please save the date.

Please contact Diana Cortez, Area Director-OSHA Tarrytown Office at 914-524-7510 with any questions or if you are planning to attend.

### **Final Rule: Regulations Implementing the Govt in the Sunshine Act; Implementation of the Equal Access to Justice Act Before the OSHRC**

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The Occupational Safety and Health Review Commission ("OSHRC") is making various corrections and technical amendments to its rules of procedure and regulations which implement the Government in the Sunshine Act and the Equal Access to Justice Act in proceedings before OSHRC. Effective date is December 7th, 2009. For more info, see <http://tinyurl.com/yj7emkf>.

### **DOL/OSHA Publishes Semiannual Regulatory Agenda**

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The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the Federal Register a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. The next 12-month review list for the Department of Labor is provided below, and public comment is invited on the listing. A brief description of each rule, the legal basis for the rule, and the agency contact are provided with each agenda item.

#### **Occupational Safety and Health Administration--Prerule Stage**

- Occupational Exposure to Crystalline Silica
- Occupational Exposure to Beryllium - In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the Paper Allied-Industrial, Chemical, and Energy Workers Union, Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage. On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium including: Current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. A timetable is below.
  - Request for Information 11/26/02
  - SBREFA Report Completed 01/23/08
  - Initiate Peer Review of Health Effects and Risk Assessment 03/00/10
- Methylene Chloride - OSHA will undertake a review of the Methylene Chloride Standard (29 CFR 1910.1052) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State, or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated. A timetable is below.
  - Begin Review 12/01/06
  - Request for Comments 07/10/07
  - Comment Period End 10/09/07
  - Reopen Comment Period 01/08/08
  - Comment Period End 03/10/08
  - End Review 04/00/10
- Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl - On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed

to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking. Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining, the nose, and airways of rats and mice. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009. A timetable is below.

- Stakeholder Meeting 10/17/07
  - ANPRM 01/21/09
  - ANPRM Withdrawn 03/17/09
  - ANPRM Comment Period End 04/21/09
  - Completed SBREFA Report 07/02/09
  - Initiate Peer Review of Health Effects and Risk Assessment 10/00/10
- Bloodborne Pathogens - OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for rule, whether the rule overlaps, duplicates or conflicts with other Federal, State or local regulations, and the degree to which technology, economic conditions or other factors may have changed since the rule was evaluated. A timetable is below.
    - Begin Review 10/22/09
    - Request for Comments 04/00/10

#### **Occupational Safety and Health Administration--Proposed Rule Stage**

- Confined Spaces in Construction - In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment. A timetable is below.
  - SBREFA Panel Report 11/24/03
  - NPRM 11/28/07
  - NPRM Comment Period End 01/28/08
  - NPRM Comment Period Extended 02/28/08
  - Public Hearing 07/22/08
  - Close Record 10/23/08
  - Analyze Comments 03/00/10

#### **Occupational Safety and Health Administration--Final Rule Stage**

- Electric Power Transmission and Distribution; Electrical Protective Equipment - Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry

requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held March 6 to 14, 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific range of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard. A timetable is below.

- SBREFA Report 06/30/03
  - NPRM 06/15/05
  - NPRM Comment Period End 10/13/05
  - Comment Period Extended to 01/11/2006
  - Public Hearing To Be Held 03/06/2006
  - Post-Hearing Comment Period End 07/14/06
  - Reopen Record 10/22/08
  - Comment Period End 11/21/08
  - Close Record 11/21/08
  - Second Reopening Record 09/14/09
  - Comment Period End 10/15/09
  - Public Hearings 10/28/09
  - Post-Hearing Comment Period End 02/00/10
  - Final Action 09/00/10
- Cranes and Derricks in Construction

See <http://tinyurl.com/yzl57qk> for the document in its entirety.

### **Dr. David Michaels Confirmed as Assistant Secretary of Labor for OSHA**

It is with great pleasure that I am finally able to announce that Dr. David Michaels was confirmed by the United States Senate last night as Assistant Secretary of Labor for OSHA. He will be sworn in early next week.

Just to refresh your memory (it's been a long time since his nomination), Professor Michaels is an epidemiologist with extensive experience in research, regulatory and public policy, and program administration. He is currently Research Professor and Interim Chair in the Department of Environmental and Occupational Health at the George Washington University School of Public Health and Health Services, and directs the Department's doctoral program.

Dr. Michaels is the author of ***Doubt is Their Product: How Industry's Assault on Science Threatens Your Health*** as well as articles in Science, JAMA, Scientific American, the International Journal of Epidemiology, the American Journal of Public Health and numerous other scientific publications. He was guest editor of a special issue on Scientific Evidence and Public Policy in the American Journal of Public Health, and of an issue of Law and Contemporary Problems entitled Sequestered Science: The Consequences of Undisclosed Knowledge.

From 1998 through January 2001, Dr. Michaels served as the Department of Energy's Assistant Secretary for Environment, Safety and Health. In this position, where he had primary responsibility for protecting the health and safety of workers, the neighboring communities and the environment surrounding the nation's nuclear weapons facilities.

Dr. Michaels was the chief architect of the historic initiative to compensate workers in the nuclear weapons complex who developed cancer or lung disease as a result of exposure to radiation, beryllium and other hazards. Since its enactment in 2000, The Energy Employees Occupational Illness Compensation Program has provided more than \$4.5 billion in benefits to sick workers and their families. He also oversaw promulgation of two major public rules: Chronic Beryllium Disease Prevention and Nuclear Safety Management.

### **OSHA Finds Problems Identified in GAO Recordkeeping Report Alarming**

OSHA welcomes the Government Accountability Office's (GAO) report on the under-reporting of workplace injuries and illnesses and OSHA's audit process. The report identifies a number of factors that may contribute to the inaccuracy of employer injury and illness records, as well as problems with the audits that OSHA conducts to ensure their accuracy.